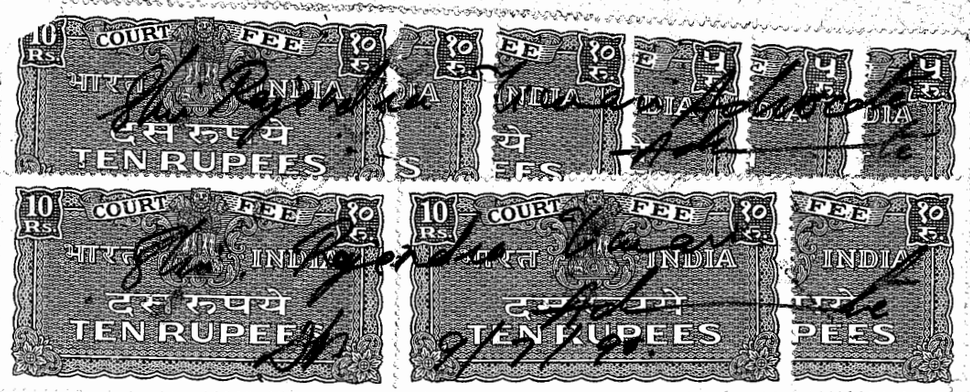

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR.

Misc. Petition No. 1802 of 1990.

Division Bench (Civil)

PETITIONERS:- 1. Ramswaroop Yadav, aged 40 years, son of Shri Rameshwarlal Yadav, Peon, Municipal Council, Khairagarh, District Rajnandgaon, resident of Turkaraipura, Khairagarh, District Rajnandgaon.

2. Suresh Kumar, aged 20 years, son of Shri Ghondusingh, Peon, Municipal Council, Khairagarh, resident of Ganj-para, Khairagarh, District Rajnandgaon.

3. Neelkanth Gharde, aged 20 years, son of Shri Ravishanker Gharde, Peon, Municipal Council, Khairagarh, resident of Naya Dhaba, Khairagarh, District Rajnandgaon, (M.P.).

VERSUS.

RESPONDENTS:- 1. Municipal Council, Khairagarh, District Rajnandgaon through the Chief Municipal Officer.

2. State of Madhya Pradesh through the Secretary to the Government of Madhya Pradesh in the Local Self-Government Department, Bhopal.

3. Director of Urban Administration, Madhya Pradesh, Bhopal.

4. Deputy Director of Urban Administration, Raipur.

PETITION UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA.

The petitioners abovenamed beg to submit as under:-

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(54)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. No. 1802/90 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

15/09/2005

Shri R.M.Sholapurkar, counsel for the petitioners.

Shri Arun Kochar, counsel for the respondent No.1.

Shri Pankaj Shrivastava, Panel Lawyer for the State/respondents No. 2, 3 and 4.

Learned counsel for the petitioner submits that the petitioners were appointed on 16/03/90 (Annexures P-4, P-5 & P-6) in cv Municipal Council, Khairagarh, District Rajnandgaon. The State Government vide order dated 31/05/90 (Annexure P-15) directed not to issue the appointment orders in cases where it had not been issued and to cancel the appointment orders in cases where it had been issued. The petitioners filed this petition immediately on 09/07/90 challenging the order dated 31/05/90 passed by the State Government. This Court after hearing both the parties granted stay of the order dated 31/05/90 to the effect that if the petitioners services had not been terminated, they shall be allowed to continue until further orders. The petitioners ever since continued as Peons in the services of the respondent No.1.

Learned counsel for the respondent No.1 does not dispute the facts. He submits that the respondent No.1 in his reply had stated that the petition was premature because no order was passed by the respondent No.1. When the petitioners had admittedly challenged the order dated 31/05/90 wherein the Deputy Director, Urban Administration, Raipur had directed the respondent No.1, Municipal Council, Khairagarh to cancel all the appointments and as such there had been a challenge of the specific order, then how this petition is premature. Admittedly, the appointment of

(पीछे देखिये)

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55

आदेश पत्रक

मामला क्रमांक W.P.No.1802/90 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the petitioners were ordered to be cancelled by the State Government. This argument is not sustainable and as such is rejected. There is no other submission on merit by the respondent No.1.

Learned counsel for the respondent Nos. 2, 3 & 4 have not filed any separate reply but adopted the return filed by the respondent No.1.

In view of the facts when the respondent Nos. 2, 3 & 4 have not filed any return justifying the impugned order dated 31/05/90 and controverting the submissions of the counsel for the petitioners, the submissions made by learned counsel for the respondent No. 2, 3 & 4 are rejected, in absence of any return on their behalf. The petitioners were appointed after due selection process by the respondent No.1. The stand taken up by the State Government that the impugned order passed by respondent No.1 was valid, is rejected.

For the reasons stated above, the order dated 31/05/90 is illegal and invalid. Even otherwise the petitioners are continuing in the service as Peons pursuant to the interim order dated 30/08/90 passed by the High Court of Madhya Pradesh. At this stage after 15 years, it is neither just nor proper to dismiss the services of the petitioners on the strength of the impugned order dated 31/05/90.

Accordingly, the impugned order dated 31/05/90 is quashed. The petition is allowed with cost quantified to be Rs. 5,000/-.

Sd/-
Satish K. Agnihotri
Judge

(पीछे देखिये)